

*“Serving the Dairy Industry for Over 50 Years”*

Sybrand Vander Dussen  
*President*

Geoffrey Vanden Heuvel  
*Vice President*

Maynard Troost  
*Vice President*

David Albers  
*Secretary*

Dick Dykstra  
*Treasurer*

Dick Jorritsma  
Daryl Koops  
Art Marquez  
B.J. Schoneveld  
Brad Scott  
Ben Slegers  
Mark Stiefel  
Hank Vander Poel  
Pete Vander Poel, Jr.

Staff

Robert VandenHeuvel  
*General Manager*

Betsy Hunter  
*Central Valley Area  
Representative*

John Huitsing  
*Controller*

Deborah Clark  
*Administrative Assistant*

Pat Boldt  
*Environmental Specialist*

John Kaczor  
*Friday Report Editor*

October 17, 2007

Kelly Loyer, Hearing Officer  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814

**Re: Post-Hearing Brief for October 10-11, 2007, Class 4a/4b hearing**

Dear Ms. Loyer,

Milk Producers Council appreciates the opportunity to submit this post-hearing brief.

I'd like to begin by highlighting a quote from last week's testimony by Dr. William Schiek, representing the Dairy Institute of California.

*“Not only are producers not entitled to the whey revenues earned by cheesemakers, but they are not entitled to the cheese, butter, and nonfat dry milk revenues received by dairy product manufacturers either.”*

- Dr. William Schiek, Dairy Institute of California, October 10, 2007

Not only is this argument in direct conflict with the California Food and Agricultural Code<sup>1</sup>, but it is a sound rejection of any middle ground offered by the producers on the issue of whey value in the class 4b formula. At a time when the dairy industry is reaching out to cheese manufacturers to develop a good-faith compromise on the whey issue, the combative tone coming from the cheese manufacturers' lead witness brings us no closer to providing a long-term solution.

Processors don't view producers as a partner in this industry, but rather as an adversary. This was never more apparent than at this hearing. Their testimony was clear – anything short of full removal of the whey factor from the formula is unacceptable. They are completely unwilling to work with producers to find a middle ground.

The compromise brought forth by Milk Producers Council, Western United Dairymen and the Alliance of Western Milk Producers represents the largest concession offered by either producers or processors since a whey factor was included in the class 4b formula in 2003. Before that proposal was developed, we reached out to multiple processor representatives, including Dr. Schiek. Unfortunately, our voice messages left with the Dairy Institute went unanswered. We also reached out to one of the lead petitioners – Farmdale Creamery. It was made clear to us – in our conversations as well as in the testimony presented last week – that there is no interest on the part of

---

<sup>1</sup> Excerpt from California Food and Ag Code Section 62062: “If the director adopts methods or formulas in the plan for designation of prices, the methods or formulas shall be reasonably calculated to result in prices that are in a reasonable and sound economic relationship with the national value of manufactured milk products.”

processors to develop a compromise. With the last two hearing panels recommending a full removal of whey from the formula, these processors feel no incentive to work with producers and find a middle ground at this time.

It is our hope that the CDFA hearing panel and the Secretary will look beyond this political hostility and truly consider the merits of the MPC/WUD/Alliance proposal. The compromise would directly address the issue brought forth by the petitioners who argued that small processors with no ability to adequately process their whey stream and capture that value from the market. The proposal also generously offers a significant break for the remaining plants as they, too, are exempted from the whey factor on their first two loads of milk per day.

### **Responding to Mr. Gossard's Question**

During the question period following my testimony, Mr. Gossard referenced the July 2007 Federal Milk Marketing Order testimony delivered by Dr. Mark Stephenson with Cornell University's Program on Dairy Markets and Policy, which was attached to my testimony at last week's CDFA hearing. In his analysis, Dr. Stephenson presented the findings from Cornell University's recent processing cost survey for cheese, whey, butter and nonfat dry milk plants. The plants selected for the recent survey were the same plants surveyed in the previous analysis, which Dr. Stephenson released in September 2006.

Mr. Gossard specifically requested the sizes of the plants surveyed in both the 2006 and 2007 analyses and their associated costs of processing dry whey. The 2006 analysis (which can be read at: <http://dairy.cornell.edu/CPDMP/Pages/Publications/Pubs/COP%20Working%20Paper.pdf>), outlines the process of selecting the plants to be surveyed. Twenty cheese/whey plants were selected for the survey, with five randomly selected from the largest 10 percent of plants in the country (outside of California), and 15 selected from the remaining 90 percent of the plants. Of these 20 plants, 16 were able to complete the survey in time to be included in the analysis.

Dr. Stephenson presented the survey results for six "low cost plants" and six "high cost plants", and calculated his weighted average costs from that data. The findings from this survey can be found below.

	Processing Labor	Processing Non-Labor	Package	General & Administrative	Return on Investment	Total Cost	Ave Volume in Group
6 Low Cost Plants	\$0.0307	\$0.0704	\$0.0098	\$0.0237	\$0.0120	\$0.1466	65,549,194
6 High Cost Plants	\$0.0662	\$0.1467	\$0.0131	\$0.0317	\$0.0430	\$0.3007	29,240,120
Simple Average	\$0.0526	\$0.1084	\$0.0113	\$0.0257	\$0.0302	\$0.2282	47,394,657
Weighted Average	\$0.0416	\$0.0940	\$0.0108	\$0.0262	\$0.0216	\$0.1941	47,394,657

The weighted average cost of processing dry whey in 2005 was \$0.1941 per pound. In the analysis attached to my testimony last week, the updated Cornell University survey shows a weighted average cost of \$0.1976 per pound. Compare this to the current California make allowance of \$0.267 per pound. As I stated in my testimony, "Our belief is that part of the reason CDFA adopted such a generous make allowance is to act as an incentive to expand cheese plant capacity in California...As a policy, make allowances should reflect normal costs, and incentives for new plant capacity should be targeted and transparent." This is why our proposal adjusts the dry whey make allowance to the nfdm make allowance plus \$0.03. This change would more accurately reflect the normal processing costs associated with manufacturing dry whey.

I thank you for the opportunity to submit this post-hearing brief. If you have any questions regarding this brief, please call Milk Producers Council at (909) 628-6018.

Sincerely,

Rob VandenHeuvel  
General Manager